



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/018,224	Confirmation No. :	7904
First Named Inventor	:	Klaus GEßNER		
Filed	:	April 25, 2002		
TC/A.U.	:	3742		
Examiner	:	L. Fastovsky		
Docket No.	:	095309.50746US		
Customer No.	:	23911		
Title	:	Electrically Heatable Glow Plug or Glow Rod For Internal Combustion Engines		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This is a pre-appeal request for review.

Although the final rejection reopening prosecution raises three grounds of rejection of Claims 5-16 (one based on 35 USC §102(e) and the other two based upon 35 USC §103(a)), the linchpin of each rejection is the Jakobi et al. patent which is co-owned by the assignee of the present application on appeal. Of the three rejections of the twelve claims, the Jakobi et al. patent is asserted to anticipate ten of the twelve claims, namely Claims 5-7 and 10-16. Claims 8 and 9 are dependent claims which will be allowable if Claim 5 from which they depend through Claim 7 is found to be allowable. Thus, in reality, only one issue is present at this level of review.

The final rejection notes that the Jakobi et al. patent teaches that the heating coil 8 is covered by a getter material. This much is a fair conclusion. However, the final rejection then infers from that conclusion that the presence of the getter material inherently surface hardens the coil 8 but does not affect the

internal structure of the coil. There is simply no rational basis for that inference. Indeed, the Jakobi et al. patent clearly teaches that the getter material can be applied galvanically, or by dipping or spraying (col. 3, lines 49-53, i.e., something that would suggest other than a hardening process). This teaching is also consistent with the goal of the Jakobi et al. invention, namely corrosion suppression which operates not by surface hardening but by binding residual oxygen by use of an integrated oxygen getter (col. 1, lines 32-41). Thus, it should be clear that the Jakobi et al. patent is not concerned with surface hardening in any manner whatsoever.

To underscore the above, we note that the Jakobi et al. patent teaches only that

- 1.) the heating coil 8 contains a getter material inside the metal jacket (col. 2, lines 38-42);
- 2.) The favored getter materials are those which have a reducing effect and include, *inter alia*, silicon (col. 2, lines 57-67);
- 3.) These getter materials can be provided in the form of a coating on the coils (col. 3, lines 23-25); and
- 4.) The getter material has to be selected to have a higher affinity for oxygen than the material comprising the coil or jacket (col. 3, lines 27-29).

No inference regarding surface hardening of the coil can be gleaned from the foregoing.

Applicants therefore request the Review Panel to withdraw the rejections of Claims 5-16.

Please note that the Notice of Appeal was filed April 11, 2005. At that time the fee amount of \$500.00 was paid to the U.S. Patent and Trademark

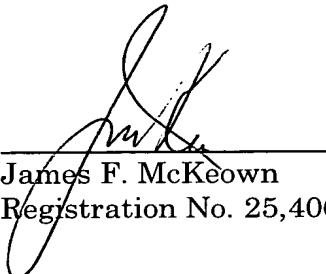
Office. A Copy of the Notice of Appeal and check stub # 282300 is hereby attached evidencing the filing and payment of the same.

Accordingly, early and favorable action is earnestly solicited.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #095309.50746US).

Respectfully submitted,



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